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REMARKS

Reconsideration of the application, as amended, is respectfully requested. Regarding formal matters, the Examiner did not consider the submission from communications filed on February 23, 2005, under 37. C.F.R. 1.312. Applicants have amended claim 82 to explicitly state, in a wherein clause, that the reaction product of the crude vegetable oil and the second polyol is blown to form the "blown modified crude vegetable oil." Applicants have also enclosed Terminal Disclaimers to obviate the double patenting rejections.

In the Non-Final Rejection mailed June 13, 2005, the Examiner rejected claims 36-37, 40-62, and 76-82 under 35 U.S.C. 102(b) as being anticipated by Croft, U.S. Patent No. 5,688,860. The Examiner asserted that:

Distinction between the various reactive materials employed in the making of the isocyanate reactive component are not evident in the claims nor are distinctions between final products evident by limitation in the claim. Distinction of applicants' invention based on the oils being blown is not seen to be evident, as distinction based on such in the final resulting product is not seen to be evident. Additionally, the materials and reactants as well as intermediates employed in the making of the products are seen to read on esterification to the degree defined by the claims such that claims to products containing such recitations are not seen to distinguish over the teachings of Croft.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. Am. Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). Applicants respectfully submit that the claims are not anticipated since the '860 patent does not disclose or suggest the use of blown vegetable oil, let alone blown palm oil, blown safflower oil, blown canola oil, blown soy oil, blown cottonseed oil, or blown rapeseed oil. Blowing rapeseed oil, palm oil, cottonseed oil and soybean oil increase their number of hydroxyl groups. (Declaration of Eric Geiger, ¶ 3). The hydroxyl groups are the typical reactive sites used in forming urethanes. (Declaration of Eric Geiger, ¶ 4). Accordingly, Applicants respectfully submit that the '860 patent does not anticipate claims 36-37, 40-62, and 76-82 under 35 U.S.C. 102(b) since the '860 patent does not disclose each and

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every limitation as arranged in the presently pending claims.

The Examiner has also rejected claims 76-82 under 35 U.S.C. 102(a) and (e) as being anticipated by WO 00/15684. In this regard, the Examiner states:

Distinction between the various reactive materials employed in the making of the isocyanate reactive component are not evident in the claims nor are distinctions between final products evident by limitation in the claim.

The Examiner has also rejected claims 76-82 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Nos. 6,180,686; 6,465,569; 6,624,244; 6,864,296; 6,867,239; and 6,881,763. These patents and the WO 00/15684 patent application are all in the same patent family and are all to Kurth. Applicants respectfully submit that none of the above documents to Kurth anticipate the claims. There are patentable distinctions between the various reactive materials. Specifically, none of these cited references disclose or suggest the reaction product of a first polyol and a blown vegetable oil, where the first polyol is a reaction product of a multi-functional alcohol and a second multi-functional compound. Therefore, claims 76-82 are not anticipated by the presently cited Kurth references. They do not disclose transesterified polyols as a reaction product.

The Examiner has also rejected claims 76-82 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of various patents and pending applications: claims 1-26 of U.S. Patent No. 6,180,686; claims 1-61 of U.S. Patent No. 6,465,569; claims 1-14 of U.S. Patent No. 6,624,244; claims 1-34 of U.S. Patent No. 6,864,296; claims 1-4 of U.S. Patent No. 6,867,239; claims 1-4 of U.S. Patent No. 6,881,763; claims 36-78 of copending Application Serial No. 09/974,301 (now U.S. Patent No. 6,962,636); claims 72-98 of copending Application Serial No. 09/974,302; claims 38-52, 60-62, 83-85, and 94 of copending Application Serial No. 10/004,733; claims 1-17 of copending Application Serial No. 10/843,943; claims 1-28 of copending Application Serial No. 11/042,972; claims 1-20 of copending Application Serial No. 11/042,980; and claims 1-22 of copending Application Serial No. 11/108,368.

While Applicants disagree with the merits of the various obviousness-type double patenting rejections, in order to advance prosecution of this case, as provided under 37 C.F.R. 1.130(b), Applicants have timely filed Terminal Disclaimers in compliance with 37 C.F.R.

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1.321(c) to overcome the actual or provisional rejections based on the non-statutory double patenting ground. (See attached Terminal Disclaimers). Accordingly, Applicants respectfully submit that the timely filed Terminal Disclaimers have overcome the actual and provisional rejections based on double patenting grounds.

The Applicants have made a concerted effort to place the present application in condition for allowance, and a notice to this effect is earnestly solicited. In the event there is any remaining formalities or other issues needing Applicants' assistance, Applicants request the Examiner to call the undersigned attorney at (616) 949-9610.

Respectfully submitted,  
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By: Price, Heneveld, Cooper,  
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Date

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TAV/AGZ/jrf  
Enclosures